

Senate Bill 1029

Sponsored by COMMITTEE ON HUMAN SERVICES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act creates a new exception to laws that allow the state to take back medical assistance paid to a person from the person's estate. (Flesch Readability Score: 63.0).

Prohibits the recovery of medical assistance from an individual's estate under circumstances in which a child had been living in the individual's home and providing care to the individual.

Removes the prohibition against the transfer of real or personal property without adequate consideration by recipients of medical assistance or recipients of assistance under the Oregon Supplemental Income Program.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the recovery of public assistance; creating new provisions; amending ORS 411.620,
3 411.708 and 416.350; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 416.350 is amended to read:

6 416.350. (1) The Department of Human Services or the Oregon Health Authority may recover
7 from any person the amounts of medical assistance the department or the authority incorrectly paid
8 to or on behalf of the person.

9 (2) Except as prohibited by ORS 178.380, medical assistance pursuant to ORS chapter 414 paid
10 to or on behalf of an individual who was 55 years of age or older when the individual received the
11 assistance, or paid to or on behalf of a person of any age who was a permanently institutionalized
12 inpatient in a nursing facility, intermediate care facility for persons with intellectual disabilities or
13 other medical institution, may be recovered from the estate of the individual or from any recipient
14 of property or other assets held by the individual at the time of death including the estate of the
15 surviving spouse. Claim for such medical assistance correctly paid to or on behalf of the individual
16 may be established against the estate, but the claim may not be adjusted or recovered until after
17 the death of the surviving spouse, if any, and only at a time when the individual has no surviving
18 child who is under 21 years of age or who is blind or permanently and totally disabled. [*Transfers*
19 *of real or personal property by recipients of such aid without adequate consideration are voidable and*
20 *may be set aside under ORS 411.620 (2).*]

21 (3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or
22 surviving spouse of a recipient to the extent that:

23 (a) The need for aid resulted from a crime committed against the recipient[.]; **or**

24 (b)(A) **For two consecutive years immediately before the recipient was determined eligible**
25 **for medical assistance or immediately before the recipient's death, a child of the recipient:**

26 (i) **Lived in the recipient's home; and**

27 (ii) **Provided to the recipient a level of care that eliminated the need for the recipient to**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **receive medical assistance; and**

2 **(B)(i) Title to the recipient's home was transferred to the child during the recipient's life;**
 3 **or**

4 **(ii) The child inherited an interest in the recipient's home.**

5 (4) In any action or proceeding under this section to recover medical assistance paid, it is the
 6 legal burden of the person who receives the property or other assets from a medical assistance re-
 7 cipient to establish the extent and value of the recipient's legal title or interest in the property or
 8 assets in accordance with rules established by the authority.

9 (5) Amounts recovered under this section do not include the value of benefits paid to or on be-
 10 half of a beneficiary under a policy or certificate of qualified long term care insurance as defined
 11 in ORS 743.652, that were disregarded in determining eligibility for or the amount of medical as-
 12 sistance provided to the beneficiary.

13 (6) As used in this section:

14 (a) "Estate" includes all real and personal property and other assets in which the deceased in-
 15 dividual had any legal title or interest at the time of death including assets conveyed to a survivor,
 16 heir or assign of the deceased individual through joint tenancy, tenancy in common, survivorship,
 17 life estate, living trust or other similar arrangement.

18 (b) "Medical assistance" includes the state's monthly contribution to the federal government to
 19 defray the costs of outpatient prescription drug coverage provided to a person who is eligible for
 20 Medicare Part D prescription drug coverage and who receives medical assistance.

21 **SECTION 2.** ORS 411.708 is amended to read:

22 411.708. (1) The amount of any assistance paid under ORS 411.706 is a claim against the property
 23 or interest in the property belonging to and a part of the estate of any deceased recipient. If the
 24 deceased recipient has no estate, the estate of the surviving spouse of the deceased recipient, if any,
 25 shall be charged for assistance granted under ORS 411.706 to the deceased recipient or the surviving
 26 spouse. There shall be no adjustment or recovery of assistance correctly paid on behalf of any de-
 27 ceased recipient under ORS 411.706 except after the death of the surviving spouse of the deceased
 28 recipient, if any, and only at a time when the deceased recipient has no surviving child who is under
 29 21 years of age or who is blind or has a disability. [*Transfers of real or personal property by recip-*
 30 *ients of assistance without adequate consideration are voidable and may be set aside under ORS*
 31 *411.620 (2).]*

32 (2) Except when there is a surviving spouse, or a surviving child who is under 21 years of age
 33 or who is blind or has a disability, the amount of any assistance paid under ORS 411.706 is a claim
 34 against the estate in any conservatorship proceedings and may be paid pursuant to ORS 125.495.

35 (3) Nothing in this section authorizes the recovery of the amount of any assistance from the
 36 estate or surviving spouse of a recipient to the extent that the need for assistance resulted from a
 37 crime committed against the recipient.

38 **SECTION 3.** ORS 411.620 is amended to read:

39 411.620. (1) The Department of Human Services or the Oregon Health Authority may prosecute
 40 a civil suit or action against any person who has obtained, for personal benefit or for the benefit
 41 of any other person, any amount or type of public assistance or medical assistance, or has aided any
 42 other person to obtain public assistance or medical assistance, in violation of any provision of ORS
 43 411.630 or in violation of ORS 411.640. In such suit or action, the department or the authority may
 44 recover the amount or value of public assistance or medical assistance obtained in violation of ORS
 45 411.630 or in violation of ORS 411.640, with interest, together with costs and disbursements incurred

1 in recovering the public assistance or medical assistance.

2 (2) Except with respect to bona fide purchasers for value, the department, the authority, the
3 conservator for the recipient or the personal representative of the estate of a deceased recipient
4 may prosecute a civil suit or action to set aside the transfer, gift or other disposition of any money
5 or property made in violation of any provisions of ORS 411.630[*411.708 and 416.350*] and the de-
6 partment or the authority may recover out of such money or property, or otherwise, the amount or
7 value of any public assistance or medical assistance obtained as a result of the violation, with in-
8 terest, together with costs and disbursements incurred in recovering the public assistance or med-
9 ical assistance.

10 **SECTION 4. (1) The amendments to ORS 416.350 by section 1 of this 2025 Act apply to**
11 **claims for medical assistance adjusted or recovered on or after the effective date of this 2025**
12 **Act.**

13 **(2) The amendments to ORS 411.620 by section 3 of this 2025 Act apply to civil proceedings**
14 **commenced on or after the effective date of this 2025 Act.**

15 **SECTION 5. This 2025 Act takes effect on the 91st day after the date on which the 2025**
16 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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